

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
Amendment of Section 73.202(b))
Table of Allotments,)
FM Broadcast Stations.)
(Channel 280C, Toquerville, Utah))

MB Docket No. 04-134
RM-10948

RECEIVED

JUN 10 2004

COMMENTS OF
BONNEVILLE INTERNATIONAL CORPORATION FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

I. INTRODUCTION.

Bonneville International Corporation ("Bonneville")¹ hereby submits its comments in response to the Commission's *Notice of Proposed Rulemaking* ("Toquerville Notice") released April 19, 2004.² The *Toquerville Notice* seeks comment on a proposal to amend the FM Table of Allotments to reserve vacant FM channel 280C, Toquerville, Utah for noncommercial educational FM ("NCE FM") use. As discussed below, the reservation of channel 280C is unwarranted because a reserved channel can be authorized to provide NCE FM service to the community of Toquerville.

II. BACKGROUND.

On September 30, 2003, the Commission released a Public Notice ("*NCE Notice*") that announced the opening of a window permitting noncommercial educational reservation showings

¹ Bonneville is a diversified media company that operates a full service television station and a number of radio stations in several markets across the country. All of the stations operated by BIC are licensed to a BIC-affiliated company, Bonneville Holding Company.

² *In the matter of Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations, (Toquerville, Utah)*, MB Dckt. No. 04-134, *Notice of Proposed Rulemaking*, DA 04-1027 (rel. Apr. 19, 2004).

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for certain vacant FM allotments.³ The *NCE Notice* directed interested reservation proponents to submit petitions for rulemaking utilizing the reservation methodology set forth in the *NCE Second Report and Order*, which provides for the reservation of a vacant commercial FM channel for NCE FM use if a proponent can demonstrate that it is “technically precluded from using a reserved channel and would provide a first or second NCE radio service to 10% of the population within its 1mV/m contour.”⁴ On November 21, 2003, Calvary Chapel of St. George (“Calvary”) filed a petition to reserve channel 280C, Toquerville, Utah for NCE FM service. The Calvary reservation petition fails the Commission’s first reservation requirement because it is not technically precluded from using a reserved channel to serve Toquerville.

III. RESERVATION OF CHANNEL 280C IS UNWARRANTED BECAUSE RESERVED CHANNEL 201 CAN BE AUTHORIZED TO THE COMMUNITY OF TOQUERVILLE, UTAH.

In the *NCE Second Report and Order*, the Commission stated that reservation showings will be “conclusively rebutted if a party that desires a non-reserved allotment can both identify a single location from which a facility with a class-permissible power/height combination can be authorized in compliance with the rules, and show, with respect to that location, that the specified facilities would satisfy the first or second service criterion.”⁵ As demonstrated in the attached engineering statement, equivalent class C facilities can be authorized on reserved channel 201, at the city center coordinates for Toquerville, in compliance with the Commission’s rules. Such facilities would provide a first NCE FM service to 19,962 persons, representing 15.3

³ *Media Bureau Opens Window to Permit Noncommercial Educational Reservation Showings for Certain Vacant FM Allotments, Public Notice*, DA 03-2990 (rel. Sept. 30, 2003).

⁴ *In the Matter of Reexamination of the Comparative Standard for Noncommercial Educational Applicants*, MM Docket. No. 95-31, *Second Report and Order*, 18 FCC Rcd 6691, 6702 (2003) (“*NCE Second Report and Order*”).

⁵ *NCE Second Report and Order* at 6705; see also *Toquerville Notice* at para. 3.

percent of a channel 201 predicted service area.⁶ Thus, the attached engineering statement demonstrates: (1) that a reserved allotment with a class-permissible power/height combination can be authorized in compliance with the rules, and (2) that the specified facilities would satisfy the first or second service criterion. Accordingly, the Calvary reservation petition is conclusively rebutted.

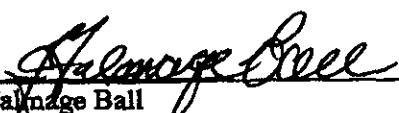
IV. CONCLUSION.

For the reasons set forth above, Bonneville respectfully submits that the proposed reservation of Channel 280C, Toquerville, Utah for NCE FM service is unwarranted and should not be adopted.

Respectfully submitted,

BONNEVILLE INTERNATIONAL CORPORATION

By:


J. Talmage Ball
Vice President Broadcast Engineering

June 10, 2004

⁶ The attached engineering statement also includes an additional showing that demonstrates that the community can be served with a less than class C reserved channel facility, authorized in compliance with the Commission's rules, which would satisfy the first and/or second service criterion.

EXHIBIT E
ENGINEERING STATEMENT RE;
DEMONSTRATION OF NON-PRECLUSION
OF FM EDUCATIONAL RESERVED
CHANNELS IN TOQUERVILLE, UTAH

INTRODUCTION

This engineering statement is prepared on behalf of Bonneville International Corporation. It presents information relating to the showing of preclusion of FM educational reserved channels submitted by Calvary Chapel of St. George (CCSG) in support of its request for reservation of a vacant commercial FM channel. This statement, demonstrating the availability of a “same-class” NCE FM reserved band facility, is offered as rebuttal to the proposal of CCSG, in FCC MB Docket 04-134, RM-10948, for NCE FM reservation for the existing Toquerville, Utah commercial allocation on channel 280C.

All information and material presented herein is based on current FCC rules and policy. It also relies on guidance obtained from the FCC Rulemaking in MM Docket No. 95-31, Second Report and Order (R&O), adopted March 4, 2003, titled; Reexamination of the Comparative Standard for Noncommercial Educational Applicants.

BACKGROUND

CCSG seeks to reserve a vacant commercial allotment (280C) for non-commercial educational service to the community of Toquerville, Utah. The FCC policy in the above reference R&O allows for the reservation of un-occupied commercial channels as NCE FM reserved channels under certain circumstances.

As provided for in the R&O, a preclusion of available NCE FM channels must be shown for the “maximum same-class facility” at outlying locations. In addition, at the city

center coordinates for the community of license the preclusion study must show, "that no same-class rule-compliant facility can be authorized at minimum antenna HAAT and with minimum ERP on any reserved band channel..."

The request for reservation of a commercial channel will be considered to have been rebutted by a showing that the preclusion required above is not met.

FCC EDUCATIONAL SPECTRUM ALLOCATION SHOWING

Using the typical NCE FM technical protection methods, including the use of directional antennas, it can be shown that a minimum Class C facility, on reserved channel 201, can be authorized in the reserved band at Toquerville.

At the city center coordinates for Toquerville, the required minimum Class C antenna height of 451 meters AAT can be met with an antenna center of 744 meters AGL. The minimum Class C ERP of 100 kW is proposed. The required contour overlap protection is met by the use of a directional antenna illustrated in Figure 1.

The only station requiring contour protection is co-channel station KCEP at Las Vegas, Nevada. Attached as Figure 2 is a contour map illustrating the desired and interfering contours for the co-channel situation and the lack of any prohibited overlap.

NEW SERVICE

The R&O also sets out a new service test that requires the proposed facility to provide a, "first or second new non-commercial service to at least 10% of the population in the proposed new service area, such population being at least 2000 persons." The test in this process is answered below.

The proposed Channel 201 reserved band minimum Class C 60 dBu service area

comprises a 2000 census population of 130,567. Other authorized NCE FM facilities serve portions of that population, specifically KZBS (C.P.) Ch.214C3 at St. George serves a portion of the service area, covering a population of 82,215, and KSUU (Lic.), Ch.216C3 at Cedar City serves a portion of the service area, covering a population of 28,390. The remaining unduplicated population of 19,962 represents new first service, approximately 15.3% of the gross 60 dBu service area population. KAER (C.P.) 207A at St. George also provides another service, however it is totally encompassed within the KZBS service area and generates a “second service” of 18,388 people or 14.1% of the gross 60 dBu service area population.

Therefore, Toquerville can be served by a minimum Class C facility from the city center coordinates on reserved channel 201 in compliance with the FM educational allocation protection requirements and in compliance with the 10% new first or second service requirement in the R&O. This technical showing for a new reserved band NCE FM facility rebuts the CCSG proposal to re-allocate commercial channel 280C.

SUMMARY OF NON-PRECLUSION

The FCC Report and Order states, “A reservation showing will be conclusively rebutted if a party that desires a non-reserved allotment can both identify a single location from which a facility with a class-permissible power/height combination can be authorized in compliance with the rules, and show, with respect to that location, that the specified facilities would satisfy the “first or second service” criterion.” Such a showing is provided above and the proposal by CCSG, to reserve the vacant commercial channel 280C allocation for future NCE FM only use, is rebutted by that showing.

ADDITIONAL SHOWING

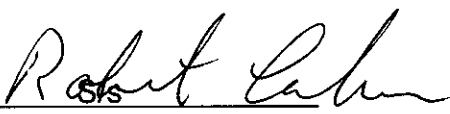
In addition to the showing above, it is noted that Toquerville can be served by a less than Class C facility from the city center coordinates, in compliance with the FM

educational allocation protection requirements and in compliance with the 10% new first or second service requirement in the R&O. Under this analysis, an assumed antenna height of 150 meters AGL (-143 meters AAT) and an ERP of 50 kW Omni-directional is used. The same contour overlap protection analysis as presented in Figure 2 is made and is presented here as Figure 3. Again that figure shows no prohibited overlap.

The population in the resulting 60 dBu service area is 78,710. The other authorizations providing NCE FM service to the population in this area are KSUU with 621 and KZBS with 76,600. Therefore, this service at Toquerville covers a new first service population of 1,489 or 1.9% of the total service population. In addition, KAER (CP) at St. George provides service to a population of 62,871 that is totally encompassed within the KZBS service area. The net KZBS only service is to 13,729 people. This results in a new second service of 13,729 or 17.4% of the total service population.

This technical showing for a new reserved band NCE FM facility also rebuts the CCSG proposal to re-allocate commercial channel 280C. In sum, this engineering statement demonstrates that an NCE FM station can be operated at Toquerville without the necessity of resorting to the re-allocation process of reserving an existing commercial allocation.

Respectfully Submitted,
Lohnes and Culver


by 
Robert Culver, P.E.
Md. Reg. No. 19672

June 9, 2004

CERTIFICATE OF SERVICE

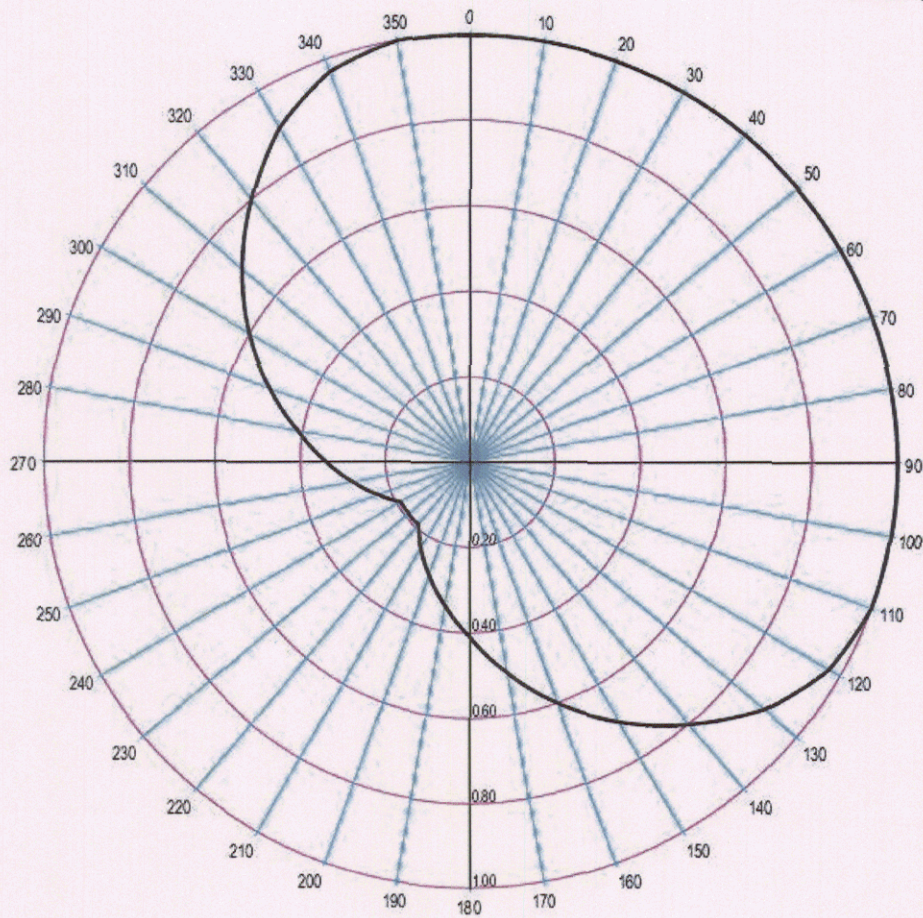
I, Paula Lewis, do hereby certify that on this 10th day of June 2004, a copy of the foregoing Comments was served by first-class mail, postage prepaid, to the following:

David A. O'Connor
Holland & Knight LLP
2099 Pennsylvania Ave., NW, Suite 100
Washington, DC 20006



Paula Lewis

FIGURE 1
ANTENNA PATTERN
CH. 201, 100KW MAX-DA, 451M AAT
TOQUERVILLE, UTAH
JUNE, 2004



Azim	Rel.FS	ERP [kW]	dBk	Azim	Rel.FS	ERP [kW]	dBk	Azim	Rel.FS	ERP [kW]	dBk	Azim	Rel.FS	ERP [kW]	dBk
0.0	1.000	100.000	20.000	90.0	1.000	100.000	20.000	180.0	0.410	16.810	12.256	270.0	0.340	11.560	10.630
5.0	1.000	100.000	20.000	95.0	1.000	100.000	20.000	185.0	0.375	14.062	11.481	275.0	0.375	14.062	11.481
10.0	1.000	100.000	20.000	100.0	1.000	100.000	20.000	190.0	0.340	11.560	10.630	280.0	0.410	16.810	12.256
15.0	1.000	100.000	20.000	105.0	1.000	100.000	20.000	195.0	0.310	9.610	9.827	285.0	0.455	20.702	13.160
20.0	1.000	100.000	20.000	110.0	1.000	100.000	20.000	200.0	0.280	7.840	8.943	290.0	0.500	25.000	13.979
25.0	1.000	100.000	20.000	115.0	0.985	97.022	19.869	205.0	0.255	6.502	8.131	295.0	0.550	30.250	14.807
30.0	1.000	100.000	20.000	120.0	0.970	94.090	19.735	210.0	0.230	5.290	7.235	300.0	0.600	36.000	15.563
35.0	1.000	100.000	20.000	125.0	0.935	87.422	19.416	215.0	0.210	4.410	6.444	305.0	0.650	42.250	16.258
40.0	1.000	100.000	20.000	130.0	0.900	81.000	19.085	220.0	0.190	3.610	5.575	310.0	0.700	49.000	16.902
45.0	1.000	100.000	20.000	135.0	0.850	72.250	18.588	225.0	0.190	3.610	5.575	315.0	0.750	56.250	17.501
50.0	1.000	100.000	20.000	140.0	0.800	64.000	18.062	230.0	0.190	3.610	5.575	320.0	0.800	64.000	18.062
55.0	1.000	100.000	20.000	145.0	0.750	56.250	17.501	235.0	0.190	3.610	5.575	325.0	0.850	72.250	18.588
60.0	1.000	100.000	20.000	150.0	0.700	49.000	16.902	240.0	0.190	3.610	5.575	330.0	0.900	81.000	19.085
65.0	1.000	100.000	20.000	155.0	0.650	42.250	16.258	245.0	0.210	4.410	6.444	335.0	0.935	87.422	19.416
70.0	1.000	100.000	20.000	160.0	0.600	36.000	15.563	250.0	0.230	5.290	7.235	340.0	0.970	94.090	19.735
75.0	1.000	100.000	20.000	165.0	0.550	30.250	14.807	255.0	0.255	6.502	8.131	345.0	0.985	97.022	19.869
80.0	1.000	100.000	20.000	170.0	0.500	25.000	13.979	260.0	0.280	7.840	8.943	350.0	1.000	100.000	20.000
85.0	1.000	100.000	20.000	175.0	0.455	20.702	13.160	265.0	0.310	9.610	9.827	355.0	1.000	100.000	20.000

FIGURE 2
PREDICTED CONTOURS
CH.201, 100KW MAX-DA, 451M AAT
TOQUERVILLE, UTAH
JUNE, 2004

Toquerville 40dB (50,10) Contour

KCEP 40dB (50,10) Contour

Toquerville 60dB (50,50) Contour

KCEP 60dB (50,50) Contour

KCEP 60dB
(50,50)
Contour

FIGURE 3
PREDICTED CONTOURS
CH. 201, 50KW OMNI ERP, 150M AGL
TOQUERVILLE, UTAH
JUNE, 2004

